

Burlington Development Review Board

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Jim Drummond (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, December 2 2014, 5:00 p.m.

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
Minutes

Board member present: Austin Hart (Chair), Jonathan Stevens, Michael Long, Brad Rabinowitz, Israel Smith, Alexander LaRosa, Missa Aloisi and Ali Zipparo.

Board members absent: Jim Drummond.

Staff members present: Ken Lerner, Scott Gustin, Mary O'Neil.

I. Agenda

No changes.

II. Communications

A number of supplemental communications presented tonight. Accepted by board members.

III. Minutes

November 18 in packet. Board members instructed to bring comments or changes to the deliberative for discussion.

IV. Public Hearing

1. 15-0568CU: 30 DANS COURT (RL, Ward 1) David E. Zuckerman

Conditional use to add one unit to existing duplex. (Project Manager: Ken Lerner)

Applicant David Zuckerman present and sworn in.

A. Hart asks Ken to give background and synopsis of communication.

Ken Lerner – concerns from neighbor. Dan's Court is privately owned. Good points, but not relevant to the application at hand.

David Zuckerman – resident of Hinesburg, bought this property in 1994. Lived there until 2000, when he moved to Germaine Street. Now lives in Hinesburg. The proposal is to take 4 bedroom apartment and divide it into 2; a two bedroom and a one bedroom apartment. Believes there is adequate parking.

A Hart – staff notes 3 available parking spaces on site. Application says 6 parking spaces. Staff's position is that you could squeeze 6 parking spaces, but for practical purposes, only 3.

David Zuckerman – Property lines extend along Dan's Court perpendicular to traffic. I won the end of Dan's Court. I would have to review to see if staff included the driveway. For clarity, maybe those are indicated as two?

Ken Lerner – correct. The end of Dan's Court goes right out, includes 2 parking spaces. Technically, there are only 2 spaces. Can't have tandem.

David Zuckerman – we have fit 8 cars in there, side by side and front to back. Regularly, folks have parked there to allow snow to get plowed up onto our lawn.

Ken Lerner – site plan – parking space is 12' x 35 deep. On David's property. I wasn't counting the neighbors. Look at the aerial photo – it looks like one big parking lot.

A Hart – ordinance would require 4 parking spaces.

Ken – four paper spaces; previous duplex. In that sense, it is a wash.

A Hart – One less bedroom. Fewer impacts.

Brad Rabinowitz – parking court because of the ordinance that has been warned but not adopted?

Ken Lerner – yes.

David Zuckerman – if this isn't approved, we would continue to have what we have: more bedrooms.

A Hart – understood.

Luke Purvis – neighbor. Property on North Willard that ends at Dans Court. I have a barn that sits tightly against the retaining wall at Dan's Court. Prior to this DRB meeting, I had written a letter about

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concerns. [In communication packet.] I wrote a letter to each of the residents on Dan's Court. Mr. Zuckerman acknowledged the issue I had mentioned; verbally agreed to accept the snow on his property so it wasn't pushed against my barn. But after moving in, the wall that is directly against Dan's Court is rotted out (below grade), snow is plowed off Dan's Court against my garage. He was willing to discuss a solution. I believe that engagement will continue. I want to be part of this process to bring some of the constraints, certainly related to a private road. Not noticeable to folks who aren't living next to it. Infrastructure along the road has degraded. Greater impact to those of us west of Dan's Court. I represent people that have property on the west. I am worried about how they will be maintained, catch basin and stormwater line that overflowed, spilling onto my property. With a gray area of how to maintain a private road and seeing infrastructure that had existed; feeling impacts. Worthwhile to mention. There is a dependency in the logistics of snow removal. My property is a triplex. Reduce headlight glare. I would like to see engagement with the person who does the plowing that they will be able to plow in a manner that is responsible.

A Hart – This is going to lessen the impacts on you and other neighbors. You have opened a line of communication with Mr. Zuckerman and others on Dan's Court. I would encourage you to continue that effort.

David Zuckerman – we have various conversations in our neighborhood. We made it clear about how we would plow, off to my lawn. Not plow sideways in that section.

A Hart – closes public hearing on this item. 5:29 pm.

2. 15-0579CU: 28 EAST VILLAGE DRIVE (I/RL/RCO-R, Ward 1) Cheryl Herrick

Conditional use home occupation for food processing. Using condo association communal kitchen for portion of process. (Project Manager: Scott Gustin)

Applicants sworn in. Cheryl Herrick (family owned 5 Spice Café). Her dad and she have responded to requests to make sauces they used to serve in the restaurant. We have a large and comfortable kitchen in the shared space at Co-Housing. We have been getting together once a month, making sauces, and selling to friends.

A Hart – We have a statement from the association and staff comments.

Brad – Marketing?

Cheryl – I will give you a card (laughter)

Brad – I remember 5 Spice.

Cheryl – Vermont Department of Health would move us right out.

A Hart – people would have to schedule one vehicle at a time for a home occupation.

Cheryl – they have to schedule with me.

Peter >>>>, President of the Owner's Association, Board of Directors of Co-Housing. Some months ago we approved the proposal of Cheryl. We fully support it. A good use of the kitchen. We often have social events where community comes. Community garden Association, breakfasts. A very ordinary thing. Completely supported by our community.

A Hart – your association has the most, complete set of minutes I have ever seen. (laughter)

No one else to speak on this item. Closes public hearing 5:34pm.

3. 15-0479CA/CU: 511 NORTH STREET (RL, Ward 1) Ethan & Gretchen Platt

Conditional use to demolish historic barn structure at rear, construct two story addition to existing house with new single car garage. (Project Manager: Mary O'Neil)

Donal Dugan distributes revised elevations.

A Hart – swears in Donal Dugan, Gretchen and Ethan Platt.

Ethan Platt presents background. Revised plans reflect staff comments. Fence location, lighting, questions about parking, minor changes to windows. Added a third window on the back of the house.

A Hart – a complete application. Struggled with the demolition of the barn. It looks like staff did too.

Especially when the neglect occurred with a prior owner. Is this an issue that came up at the time you discussed purchasing the property.

Ethan Platt – yes, we were close to backing out because of this problem. What our liability would be?

Staff provided me with demo by neglect standards. I felt confident that our plans could positively impact the property. Trying to make improvements.

A Hart – An issue discussed with the seller?
 Ethan Platt – yes, reduced the sale price.
 Brad Rabinowitz – on the basic design: Is there any consideration in matching roof slopes?
 Donal Dugan – We looked at that option, 12/12. Working on the proportion with the back.
 Ethan – There are dormers here, not reflected in the plan. Plaster and lathe. Finished living space there. Vaulted ceiling, big space.
 Brad – wasted a lot of space, energy.
 Donal – Cathedral ceiling in one room...
 Ethan – It would make it that much higher. Sun effect for our neighbors if we were higher.
 Brad – Not supposed to be mimicking it, or duplicating it. It doesn't have the presence that the old had. Sort of unfortunate.
 A Hart – to Missa-
 Missa –to Brad – are you referring to the pitch of the barn?
 Ethan – flat. Saloon style front, square.
 Donal – Mary's description says it best.
 Brad – it had a flat roof?
 Ethan – basically, from the sides, it appears flat. Slightly pitched.
 Brad – rolled roofing?
 Ethan, failed. You can see the rolled asphalt roofing, punch bowl shaped.
 Donal – so dilapidated, hard to get a photo.
 Israel – Asks for report of structural engineer. Mary can provide.
 Ethan provides email from Ned Holt, Jeff Fellingner.
 Mary provides engineer's letter.
 Michael – asked about other roof pitches considered.
 Donal – my client's aesthetic. An addition of clearly a different time.
 Michael Long – if barn were restored, it wouldn't work with your plan.
 Ethan – we are using that lot coverage for the addition. If the barn had been there, there is a covered patio. There would still be some options, but addition would not be so big. If restored, barn could not be used for a garage as you couldn't get to it.
 Michael – because it is at the back of the lot.
 Brad – if part of the findings included a requirement for a landscaping plan, you would be okay with that?
 Ethan – verbal support of neighbors. Currently the barn gives our neighbors some privacy. Would propose plantings to do that.
 Mary O'Neil – outlines Demo by neglect, failure of system to capture these. Loss of a number of buildings over the last 18 months.
 Brad – a list to be assembled?
 Mary - of those lost?
 Brad – of what we have now, to prevent loss.
 Michael – failure through lack of enforcement.
 Mary – we are working on a better process to avoid these situations.
 A Hart – closes public hearing 5:52 pm.

V. Certificate of Appropriateness

1. 14-0884CA/MA: 247-249 PEARL STREET (RH, Ward 2) Pearl Lake, LLP

Amendment to ZP#14-0884CA/MA to reconfigure retaining walls to be higher due to less excavation.
 (Project Manager: Mary O'Neil)

A Hart swears in Justin Dextradeur and Erik Hoekstra.

Jonathan – staff recommends Consent.

A Hart – I wish to discuss in a public hearing. I remember this.

Israel – needs to recuse himself.

Brad – how is this different from the application?

Erik Hoekstra – co-developer of the project. Changes to the site plan, not the building. Dealing with urban soils issues. PAH, almost everywhere in the City of Burlington. Some level in the soil. We don't usually test unless we are doing something.

A Hart – No point source?

Erik – comes from incomplete combustion. From the fire? But there wasn't elevated levels near the building footprint. We think that since this site is part of the old ravine, We know Church Street remnants may be there, but we won't pin this on Church Street.

Mary O'Neil – a lot of fill in that area came from the railroads. That could be an explanation.

Erik – We had to go back to the drawing board due to the grade changes on this property and properties on 3 sides. Trying to respect the neighbors who don't want to look at large retaining walls. Other neighbors want retaining walls in the background to create a barrier to prevent people from cutting through their yards to get to the liquor store from Buell Street. South side neighbors feel the same. Neighbors to the west have objections to the high walls. We minimized the walls there. We have met with the neighbor to the west – only sees about a 2' high wall, transitions from there. We are moving some soil around; retaining walls higher on some sides. Will not be visible from public rights-of-way. Allow us to have a feasible project.

A Hart – on PAHs, leave it alone. Once you touch it, you must dispose of it?

Erik – correct.

A Hart – primary impact on south?

Erik – and East. Parts of that wall will be 12' high.

Brad – Before?

Erik – about 6'. Not visible. There is a steep bank there, highly vegetated.

Brad – on the west side, starting at the north, drops down quickly. Drops down to 10'.

Erik – correct.

Brad – some houses on the Buell, a parking area there. Any landscaping?

Erik – not proposed between the parking lots and the retaining wall. Kind of a scrappy mess. This is a redi-rock, pre-cast block with stone finish. Not poured.

Justin – simulated look of multiple courses. "Lego-blocks."

Brad – no scale. 2'?

Justin Dextradeur – partly buried below grade. Face will step back.

Alexander LaRosa – grade changes, stormwater?

Justin Dextradeur – previously we were cutting down. Chambers were lower. Engineer will be updating stormwater plan; basically down a strata.

Erik – no building entrance on the west side. Front door faces Pearl Street, driveway on east side.

What changes is WHERE the parking lot is. The west end of the building had part of the building exposed. Now less of the building exposed.

Michael – flatter site.

Erik – yes.

Michael – folks were concerned about it being too massive.

Erik – Most properties to the west are not impacted at all. Our neighbor Roger, who has the garage that juts out into our property, he will see about 2' transitioning to slightly taller. Minimal. We visited with him to assure that he didn't have any objections.

Justin Dextradeur – first plan has three sides of poured retaining wall. When we moved away from that, we had a small wedge, to maybe 3'; now tapering. Same aspect, no ringing.

Erik – working with DEC, Umbrella program, working with EPA. We are doing things properly.

Alexandra Zipparo – I want to hear more about working with EPA and ANR.

Erik – Phase I, Phase II, soil borings, reviewed by the state. Working a lot with DEC, ANR, and Agency of Commerce and Community Development on Brownfields. Pulls EPA into the process. We have to develop a Corrective Action Plan (CAP). Very involved process with a lot of oversight.

Alexandra Zipparo – Doesn't release the chemical?

Erik – In many instances, can be left in situ. They sometimes require a physical barrier, like a cap. Sometimes clean material; a top layer. Notification of tenants so they aren't digging around. In urban situations, DEC is more supportive of leaving things in place. More harm can come from disturbing it.

Ali – only tested for VOCs and PAH. Did they test for other contaminants?

Erik – PAH was a recommendation of DEC because of known conditions. We were searching for petroleum because there is a known plume in this area. They didn't find any.

Ali – only 2 reports in the materials, from the borings.

Justin – an initial geo-technical study done for the owner. That initiated the response to look for petroleum. The more we looked, the more we found.

Ali – an exhaustive search?

Erik – Knowing the history of the property, they searched for everything that could be there. But not exhaustive.

A Hart closes hearing on this item. 6:11 pm.

VI. Other Business

1. 14-0280CU: 80 AUSTIN DRIVE UNIT 124 (RL-W, Ward 5) Bradley Mahan

Follow up review per condition of approval for conditional use home occupation for food processing. (Project Manager: Mary O'Neil)

Bradley Mahan present. The chair swears in the applicant.

Mary O'Neil reminds the board of the condition imposed by the board relative to issuance of the home occupation.

Bradley Mahan – have received one complaint from a direct neighbor. We have a duct in our bathroom. When the fan was on. All vent stacks are joined. One product has a smell of cinnamon buns. Our neighbor was pregnant, and found the smell to be excessive. We have addressed that by making sure the fan is off and both doors are closed at the time of roasting.

A Hart – so the complaint has been successfully addressed. (To staff) Have any other complaints been received by the Planning and Zoning Office?

Mary – no complaints filed with our office.

Brad – wish you brought samples.

(laughter)

A Hart – it could be considered part of our investigation!

Thank you for coming back.

2. Schedule Work Sessions

Ken Lerner discusses opportunities and suggestions.

A Hart – Ken, it sounds like your three suggestions might be part of a regular agenda. This would minimize burdens on board time.

Jonathan – I would suggest as part of our deliberations rather than have it in Contois Auditorium.

Brad – any desire to have this as part of a public forum? Part of the public meeting?

A Hart to Ken – does it have to be noticed and open to the public? Sometimes better to have a more informal process.

Ken – I will have to check. It may have to be warned.

A Hart – Anything with the Planning commission or City Council should be warned. That's my guess.

Jonathan – when I first became a member of the board, there was no education component. It was just "SWIM!" It would be good to brief new members on what is expected.

Mary – Yes, we do training with new members.

A Hart to A. J. LaRosa – did you have training?

A.J. LaRosa – yes, Scott and I had a good chat.

Michael – good to schedule strategically along with short agendas.

Ali – we should warn it. Always in favor of meeting with the Planning Commission., Previously it was every 2 years?

Ken – There has been no set schedule. My first planning job had a joint dinner with zoning board, city council, county commissioners. Very good for everybody to know each other.

Ali – I would also enjoy meeting with the Design Advisory Board.

A Hart – let's pursue that.

A Hart – City Council is looking at charter changes. A hearing here tomorrow night at 5:30. The three issues: 1. Size of boards and commissions, 2. Terms, Looking toward a uniform 3 year term for all boards and commissions, and 3. I forget. (A. J. adds Political Affiliation.)

Ali – I can't be there. Would like to pass along my thoughts.

A Hart – I will be there. Pass along comments to me, and I will communicate them.

VII. Adjournment 6:26 pm.

Deliberative scheduled for Monday, December 8, 2014 at 5:00 pm.

A. Hart - Chair, Development Review Board

Date

Mary O'Neil AICP, Senior Planner